

**OREGON RESOURCE CONSERVATION ACT; LITTLE BUTTE/
BEAR CREEK SUBBASINS IN OREGON; NEWLANDS PROJECT
HEADQUARTERS; LOWER RIO GRANDE VALLEY; AND
GLENDO UNIT OF THE MISSOURI RIVER**

HEARING
BEFORE THE
SUBCOMMITTEE ON WATER AND POWER
OF THE
COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

FIRST SESSION

ON

S. 166

S. 251

S. 310

S. 519

S. 592

APRIL 19, 2005



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**OREGON RESOURCE CONSERVATION ACT;
LITTLE BUTTE/BEAR CREEK SUBBASINS IN
OREGON; NEWLANDS PROJECT HEAD-
QUARTERS; LOWER RIO GRANDE VALLEY;
AND GLENDO UNIT OF THE MISSOURI
RIVER**

TUESDAY, APRIL 19, 2005

U.S. SENATE,
SUBCOMMITTEE ON WATER AND POWER,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The committee met, pursuant to notice, at 3:12 p.m., in room SD-366, Dirksen Senate Office Building, Hon. Gordon Smith presiding.

**OPENING STATEMENT OF HON. GORDON SMITH,
U.S. SENATOR FROM OREGON**

Senator SMITH. Ladies and gentlemen, we have convened this hearing of the Subcommittee on Water and Power. I have been asked to sit in for Chairman Murkowski, because of her commitment to another hearing in the Foreign Relations Committee that requires her presence.

I want to welcome Deputy Commissioner William Rinne. He is here today to provide the Bureau of Reclamation's testimony on these bills. And I would also like to welcome those witnesses on the second panel, many of whom have traveled to be here today.

I want to extend a special welcome to two Oregonians, Tod Heisler, executive director of the Deschutes River Conservancy; and Jim Hill with the city of Medford. I look forward to hearing from all of today's witnesses.

As a sponsor of S. 166 and S. 251, which are co-sponsored jointly with my colleague, Senator Wyden, I want to reiterate my strong commitment to both these bills and the watershed enhancement efforts they represent.

S. 166 will re-authorize the participation of the bureau in the Deschutes River Conservancy. The Deschutes Basin, in which there are several reclamation facilities, is truly one of Oregon's greatest natural resources. It drains Oregon's high desert along the eastern front of the Cascades, eventually flowing in the Columbia River. It is among the state's most intensively used recreational rivers. It provides water to both irrigators and also to municipalities.

The Deschutes Basin also contains hundreds of thousands of acres of productive forests and range lands. It serves the treaty fishing and water rights of the confederated tribes of the Warm Springs Indian. And it has Oregon's largest non-Federal hydroelectric project.

The potential for water conflicts in this—in that population is obviously very great. However, the DRC has been extremely successful in watershed restoration. It has helped the basin avoid many of the water conflicts that have been so destructive to local communities in other areas of Oregon.

For the last 8 years, the DRC has helped restore stream flow, and improved the habitat, and water quality along a hundred miles of the Deschutes River and its tributaries.

Even with these successes, the Deschutes River continues to face stream flow and water quality challenges. These challenges if unaddressed, could impact a Federal reclamation project and projects in the basin. That is one of the reasons why I have sponsored S. 166 and will push for its enactment.

The other legislation before us today, that I sponsored, is S. 251. It would authorize the Bureau of Reclamation to conduct a water resources feasibility study for the Little Butte-Big Creek sub-basins in Oregon.

This project is known as the Water for Streams, Irrigation and Economy Project, or WISE. And like DRC, the WISE project has brought together diverse agricultural, municipal, and environmental organizations dedicated to meeting the water challenges facing these sub-basins, which are tributaries of the Rogue River.

The Bureau of Reclamation has a long history in this area. Since Reclamation's talent at division became operational in 1958, there has been significant change in southern Oregon, as highlighted in Jim Hill's testimony, the Little Butte Creek and Bear Creek watershed space challenges, particularly in dry years like this; including unreliable irrigation supplies, degraded water quality for salmon, adverse recreational impacts.

Population growth has increased the demand for domestic water supplies and has generated additional wastewater that must be managed by Medford Regional Water Reclamation Facility. The city of Medford is to be commended for its leadership in developing this consensus-based approach to resolving water supply and water quality issues for both irrigators and the city; and to improving in-stream flows and water quality for salmon.

On July 2, 2004, Reclamation and the city of Medford entered into a memorandum of agreement which outlines responsibilities for a feasibility study/environmental impact statement for the WISE project.

Under the MOA, the city of Medford is responsible for securing the funds necessary to hire the consultant to conduct the study. Medford officials estimate the city's costs at \$2.8 million.

By contrast, S. 251 authorizes a half a million dollars for Reclamations to act as lead Federal agency and to provide the necessary technical oversight. Again, I will work with my colleagues from Oregon for the timely enactment of S. 251 and look forward to hearing from all of today's witnesses.

I am joined by my colleague from Wyoming, Senator Craig Thomas. And, Senator, if you have an opening statement.

[The prepared statements of Senators Smith and Ensign follow:]

PREPARED STATEMENT OF HON. GORDON SMITH, U.S. SENATOR FROM OREGON

I appreciate Chairman Murkowski's willingness to convene this hearing today to receive testimony on several site-specific water bills that are very important to local communities. Those bills are: S. 166, to amend the Oregon Resource Conservation Act of 1996 to reauthorize the participation of the Bureau of Reclamation in the Deschutes River Conservancy; S. 251, to authorize the Secretary of the Interior to conduct a water resource feasibility study for the Little Butte/Bear Creek Subbasins in Oregon; S. 310, to direct the Secretary of the Interior to convey the Newlands Project Headquarters and Maintenance Yard Facility to the Truckee-Carson Irrigation District in the State of Nevada; S. 519, to amend the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 to authorize additional projects and activities under that Act; and S. 592, to extend the contract for the Glendo Unit of the Missouri River Basin Project in the State of Wyoming.

I want to welcome Deputy Commissioner William Rinne here today to provide the Bureau of Reclamation's testimony on these bills. I'd also like to welcome those witnesses on the second panel, many of whom have traveled to be here today. I want to extend a special welcome to two Oregonians, Tod Heisler, the Executive Director of the Deschutes River Conservancy and Jim Hill with the City of Medford. I look forward to hearing from all the witnesses today.

As the sponsor of S. 166 and S. 251, which are cosponsored by my colleague Senator Wyden, I want to reiterate my strong commitment to both these bills and the watershed enhancement efforts they represent. S. 166 will reauthorize the participation of the Bureau of Reclamation in the Deschutes River Conservancy (DRC). The Deschutes Basin, in which there are several reclamation facilities, is truly one of Oregon's greatest resources. It drains Oregon's high desert along the eastern front of the Cascades, eventually flowing in the Columbia River. It is among the state's most intensively used recreational rivers. It provides water to both irrigation projects and to rapidly growing municipal areas. The Deschutes Basin also contains hundreds of thousands of acres of productive forest and rangelands, serves the treaty fishing and water rights of the Confederated Tribes of Warm Springs, and has Oregon's largest non-federal hydroelectric project.

The potential for water conflicts in this basin is great. However, the DRC has been an extremely successful watershed restoration organization that has helped the basin avoid many of the water conflicts that have been so destructive to local communities in other areas of Oregon. Participation by the Bureau of Reclamation was first authorized in 1996, and reauthorized in 2000. The current authorization of \$2 million annually expires at the end of fiscal year 2006.

The Deschutes River Conservancy has brought together diverse interests, including environmentalists, tribes, irrigators and power producers, to find cooperative, market-based solutions to the water supply and water quality challenges we are facing in the Deschutes Basin. As Tod Heisler's testimony points out, the DRC has obtained \$3.60 in matching support for each federal dollar provided through the Bureau of Reclamation. These funds have been used effectively over the last eight years to help restore streamflow and improve the habitat and water quality along 100 miles of the Deschutes River and its tributaries.

Even with these successes, the Deschutes River continues to face streamflow and water quality challenges. These challenges, if unaddressed, could impact the federal Reclamation projects in the basin. That's just one of the reasons why I sponsored S. 166, and will press for its enactment.

The other legislation before us today that I sponsored, S. 251, would authorize the Bureau of Reclamation to conduct a water resources feasibility study for the Little Butte/Bear Creek Subbasins in Oregon. This project is known as the Water for Streams, Irrigation and the Economy (WISE) Project. Like the DRC, the WISE Project has brought together nineteen diverse agricultural, municipal and environmental organizations dedicated to meeting the water challenges facing these subbasins, which are tributaries of the Rogue River.

The Bureau of Reclamation has a long history in this area. The Talent Division of the Rogue River Basin Project was authorized by Congress in 1954 for irrigation, flood control, hydroelectric power and other beneficial purposes. The Talent Division provides water to three irrigation districts and electricity from the Green Springs powerplant.

Since the Talent Division became operational in 1958, there has been significant change in southern Oregon. As highlighted in Jim Hill's testimony, the Little Butte Creek and Bear Creek watersheds face challenges—particularly in dry years—including unreliable irrigation supplies, degraded water quality for salmon, and adverse recreational impacts. Population growth has increased the demand for domestic water supplies and has generated additional wastewater that must be managed by the Medford Regional Water Reclamation Facility.

The City of Medford is to be commended for its leadership in developing this consensus-based approach to resolving water supply and water quality issues for both irrigators and the city, and to improving instream flows and water quality for salmon. On July 2, 2004, Reclamation and the City of Medford entered into a Memorandum of Agreement (MOA), which outlines responsibilities for feasibility study/environmental impact statement for the WISE Project.

Under the MOA, the City of Medford is responsible for securing the funds necessary to hire the consultant to conduct the study. Medford officials estimate the city's costs at \$2.8 million. By contrast, S. 251 authorizes \$500,000 for Reclamation's to act as lead federal agency and to provide the necessary technical oversight.

Again, I will work with my colleagues from Oregon for the timely enactment of S. 251. I look forward to hearing from all the witnesses here today.

PREPARED STATEMENT OF HON. JOHN ENSIGN, U.S. SENATOR FROM NEVADA,
ON S. 310

Madam Chairwoman, Senator Johnson, thank you very much for holding a hearing today on S. 310, the Newlands Project Headquarters and Maintenance Yard Facility Transfer Act. I am grateful for your including this important bill on your busy hearing calendar.

S. 310 would require the Secretary of the Interior to convey the Newlands Project Headquarters and Maintenance Yard Facility to the Truckee-Carson Irrigation District (TCID). I introduced S. 310, along with Senator Reid and Congressman Gibbons, because this title transfer is necessary if the TCID is to continue maintaining and operating the Newlands Project.

Over 100 years ago, in 1903, the subject of this transfer proposal, a 40 acre parcel which is the site of the current office and maintenance yard for the TCID, was withdrawn for Reclamation purposes as part of the Newlands Project. Twenty-three years later in 1926, the TCID entered into a repayment contract with the United States Government to take over operation and maintenance of the Newlands Project. At that time, the TCID moved into an office and maintenance yard on property, near the 40 acre parcel, that the Government had purchased for the United States Reclamation Service.

By 1975, the TCID had outgrown these original facilities and moved to the 40 acre parcel that is the subject of this transfer proposal. The land was available because it was not suitable for growing crops and therefore was never homesteaded or patented as were other irrigable acres. The U.S. Government did not contribute to any of the improvements to this property—all the improvements have been made by the TCID. However, in the early 1990's, the Bureau of Reclamation installed a field office on the property, tying into the improvements already made by the TCID in 1975. It occupies approximately 5 of the 40 acres and would remain with the U.S. Government.

In 1996, the TCID entered into an operation and maintenance contract with the Department of the Interior. Because of new mandates regarding water measurement and water control, the TCID needs to expand its facilities. This transfer is necessary so that the TCID can obtain financing for the necessary improvements—the first of which will be a new office building. The water users of the Newlands Project paid for an office and maintenance yard once and should not have to pay again.

The TCID is a not-for-profit governmental agency organized under the laws of the State of Nevada. It services the public by maintaining and operating the Newlands Project and delivering water in accordance with existing contracts at a minimal cost to the U.S. Government. It is important to emphasize that this withdrawn land will continue to be used for public purposes, specifically the operation and maintenance of a federal water project.

Early in February of 2004, after working with the Bureau of Reclamation and both sides of the isle on the House Resources Committee, H.R. 2831 was approved under suspension in the House with no opposition. S. 310 is almost identical to H.R. 2831, which had been re-introduced as H.R. 540 in the current session.

S. 310 has the support of our Congressional delegation, as well as from the Governor of Nevada and other elected officials in Nevada. I urge the Committee to sup-

port this legislation in order to ensure the efficient operation and maintenance of the Newlands Project.

Thank you, Ms. Chairwoman and Senator Johnson, for holding this hearing today. I look forward to working with you and your staff to address any concerns you might have.

Senator THOMAS. Thank you. I really do not. I am particularly interested, of course, in the renewal of the Glendo contracts on the Missouri River, Platte River, so that is basically why I am here. Thank you.

Senator SMITH. Thank you, Senator.

So, Bill, the mike is yours. We look forward to your testimony.

STATEMENT OF WILLIAM RINNE, DEPUTY COMMISSIONER OF RECLAMATION, DEPARTMENT OF THE INTERIOR

Mr. RINNE. Thank you, Mr. Chairman. I am Bill Rinne, Deputy Commissioner of Reclamation. Thank you for the opportunity to share the Department of the Interior's views on the five bills today.

We have submitted written testimonies on each of these bills and I would ask that they would be included for the record.

Senator SMITH. We will include them in the record without objection.

Mr. RINNE. I will begin with the two Oregon bills, S. 166, that authorizes Reclamation's participation in the Deschutes River Conservancy, a locally created organization dedicated to the restoring of stream flow and water quality in the Deschutes Basin in Oregon.

Already, the DRC has leased over 73 cubic feet a second of water during the 2004 irrigation season, restored nearly 100 miles of stream corridor, and planted 100,000 native plants.

The DRC has also acquired senior water rights that will remain in-stream during low flow periods, benefiting bull trout and summer steelhead.

While Reclamation certainly does not oppose S. 166, we cannot predict the future funding requests by the administration to carry out the legislation. Regardless, we look forward to working with you, Senator, as these efforts in the Deschutes Basin progress.

The second Oregon bill, S. 251, would authorize a feasibility study of the Little Butte and Bear Creek sub-basins of the Rogue River. And the primary goals of the bill's proponents are to increase stream flows for coho salmon; improve irrigation efficiency, and solve the effluent problems in the city of Medford.

Considering our history of cooperating with this local collaborative effort, we wish we could support S. 251 at this time. However, the proposed legislation does not require the 50 percent non-Federal cost sharing for the feasibility study. And the grants from the other Federal agencies do not qualify as cost-sharing.

The Department on S. 592, the Department supports Senator Thomas's bill to extend contracts to the Glendo Unit of the Missouri River Basin project.

We do have a couple of technical suggestions, Senator, for the legislation; which are set out in our prepared testimony. But we clearly see the need extend these contracts so that all parties will have the time needed to develop a long-term cooperative agreement.

As you probably know, we are required to have a contract in effect in order to deliver water; so, this contract extension is important to Reclamation also.

We are grateful to you, Senator Thomas, for your leadership on this.

Turning to S. 310, Mr. Chairman, we would like to transfer title to the Newlands Project Headquarters and Maintenance property to the Truckee-Carson Irrigation District. However, the bill as introduced, would treat proceeds received by the United States as sale and lease of Fallon Freight Yard, which are acquired lands, as full payment for the 37 acres this bill would transfer, which were withdrawn land.

From our point of view, this would mean that the Water District would not be required to pay anything for the property. We are concerned that this departure from normal Reclamation law and policy could set a precedent for others to follow.

And finally, Mr. Chairman, S. 519 would amend the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000; to authorize an additional 19 projects, focused mostly on water conservation.

Unfortunately, we cannot support adding these 19 new proposed projects to our long list of already authorized projects awaiting funding.

Additionally, the bill pre-authorizes projects without benefit of involvement by Reclamation in the planning and development stages.

These and other concerns prevent us from supporting S. 519, despite the worthwhile aim of the bill's proponents conserving water in the lower Rio Grande.

That concludes my testimony. I will be happy to answer any questions.

[The prepared statement of Mr. Rinne follows:]

PREPARED STATEMENT OF WILLIAM RINNE, DEPUTY COMMISSIONER OF RECLAMATION,
U.S. DEPARTMENT OF THE INTERIOR

ON S. 166

Madam Chairman and Members of the Subcommittee, I am William Rinne, Deputy Commissioner of Reclamation. Thank you for the opportunity to testify on S. 166.

This legislation would amend the Oregon Resource Conservation Act of 1996 to reauthorize the participation of the Bureau of Reclamation in the Deschutes River Conservancy (DRC). The Bureau does not oppose S. 166. However, in these lean budget times the Bureau must focus its scarce resources on its core mission of delivering water and generating power, and on aging infrastructure and O&M for existing Reclamation projects, therefore is not likely that the Conservancy will be a high priority for funding. Regardless of the level of federal financial support, we believe the Conservancy's goals of improving stream flow and water quality will certainly benefit the basin.

The DRC was originally authorized by Congress in 1996 to implement water conservation measures in the Deschutes River basin. The DRC is a locally created private, nonprofit organization established to restore stream flow and water quality in the Deschutes Basin of Central Oregon. The DRC was founded by local irrigation districts, the Confederated Tribes of the Warm Springs Reservation, environmental conservation groups, and other local stakeholders, in an effort to focus on practical, incentive-based solutions to the basin's water management challenges. The DRC leased over 73 cubic feet per second of water in the basin's streams and rivers during the 2004 irrigation season and has restored nearly 100 miles of stream corridor

using livestock management techniques, restored channel floodplain connectivity, and planted over 100,000 native plants in the riparian zone.

The DRC has permanently acquired about 7,259 acre-feet of senior water rights in the Deschutes basin that will remain instream during critical low flow periods, benefiting fish species such as ESA listed bull trout and summer steelhead.

The Administration does not understand the rationale for the provision that would define a quorum as only 8 people, less than half of the 19 people appointed to the Conservancy.

This concludes my statement. I will be glad to answer any questions.

ON S. 251

Madam Chairman and Members of the Subcommittee, I am William Rinne, Deputy Commissioner of Reclamation. Thank you for the opportunity to testify on S. 251.

This legislation would authorize the Bureau of Reclamation to conduct a water resource feasibility study in the Bear Creek/Little Butte Creek sub-basins of the Rogue River in southwestern Oregon, and to prepare an environmental impact statement provided for in the Act. The study would investigate opportunities to implement water conservation measures within the three irrigation districts (Talent, Rogue River and Medford IDs) served by Reclamation's Rogue River Project, and to increase water supplies, including use of reclaimed water from the City of Medford and modifications to existing storage facilities. Because alternatives being studied would impact the facilities and operations of the Rogue River Project, Reclamation must be involved in the effort.

It is Reclamation's understanding that a broad range of stakeholders has come together to achieve consensus on project goals and gain community support. The primary goals are to: 1) solve the sewage and storm water discharge problems of the City of Medford; 2) increase instream flows in Little Butte Creek and Bear Creek for threatened coho salmon; and 3) improve irrigation efficiency within the three irrigation districts. The project would improve the long-term viability of the three irrigation districts. The Bureau of Reclamation has cooperated with this local collaborative effort to proactively address water resource issues that could become contentious in the future.

Partial funding for this study has been obtained by the City of Medford via a grant administered by the U.S. Environmental Protection Agency. The grant is being used to fund a contractor to initiate technical studies. The local study partners believe they will be able to obtain additional funding to complete the technical studies required to meet Reclamation's standards for water resources planning. Appropriated funds would be needed to cover Reclamation staff costs to review and revise as necessary the contractor's technical work, undertake Endangered Species Act consultations with other Federal agencies, and publish the notices and documents required under the National Environmental Policy Act.

The administration cannot support S. 251 at this time. The legislation does not require at least 50% non-federal cost share for the feasibility study, as is required by Reclamation policy. Federal funds obtained by Medford through other agencies would not qualify for the cost-share requirement.

This concludes my statement. I will be glad to answer any questions.

ON S. 310

Madam Chairman, and members of the Committee, I am William Rinne, Deputy Commissioner of Reclamation. I am pleased to appear before this Subcommittee to provide the Administration's views on S. 310.

S. 310 would authorize the Secretary of the Interior to convey the Newlands Project Headquarters and maintenance yard facility to the Truckee-Carson Irrigation District. The facilities cover about 37 acres of Reclamation withdrawn property in Fallon, Nevada.

Mr. Chairman, over the past couple years, we have been working very closely with the District to resolve each of the issues on the title transfer of the headquarters property. In June 2003, Reclamation and the President of the District's Board of Director's signed an extensive Memorandum of Agreement governing the proposed title transfer. Reclamation actively supports transferring title to state and local entities when in the mutual interest of affected parties. Based on this coordination, the Administration supports the concept of transferring the title for the property to the Truckee-Carson Irrigation District.

However, we are concerned that S. 310 directs that the proceeds received by the United States for the lease and sale of Fallon Freight Yard, the transfer of which was authorized in P.L. 107-339, be treated as full payment for the 37 acres. Under this language, the District will not be required to pay anything for the property. Under Reclamation law and policy, the proceeds from the sale of acquired lands and lease revenues such as those from Fallon Freight yard are to be treated as a tail-end credit to the applicable project. In this case, the Newlands Project, not the District, our Contractor who operates and maintains the Project on behalf of the United States, should receive the credit. The lands associated with the headquarters property that is proposed to be transferred under S. 310 are withdrawn lands and thus the District has not repaid their value. If enacted as is, we are concerned the bill could set a precedent that would allow the District and other irrigation districts to make additional claims on lease or eventual sale revenues from Reclamation acquired lands.

In conclusion, I would like to take this opportunity to compliment District Board President Ernest Schank and the District's Board of Directors for their diligence and commitment in working with us on the issues surrounding this transfer. I also commend Senator Ensign for his leadership.

That concludes my statement. I would be happy to answer any questions.

ON S. 519

Madam Chairman, I am William Rinne, Deputy Commissioner of Reclamation, and I am pleased to present the Administration's views on S. 519, Senator Hutchison's bill to amend the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 (Act) to authorize additional projects and activities.

The bill authorizes an additional 19 water conservation projects, which include the replacement of canals and laterals with pipelines, the lining of canals and laterals, the installation of water measurement and telemetry systems, the renovation and replacement of pumping plants, and other activities that will result in the conservation of water. The legislation would enable the Secretary to participate in the funding of these projects, up to 50 percent of the total project cost, once they had met the review criteria and project requirements set forth in the Act. S. 519 aims to provide water saving measures to areas in Texas that have recently suffered drought.

The Department lauds local and state efforts to improve and encourage water efficiency and to responsibly manage water quantity in the border region. The Department testified in general support (with some suggested revisions) of the original legislation that became P.L. 106-576 and of the subsequent amendment (P.L. 107-351). Together, these laws authorized 19 projects with a cost ceiling of \$47,000,000. The amendments offered in S. 519 appear to maintain the intent of the existing law while authorizing an additional 19 projects with a cost ceiling of \$42,356,145. However, Reclamation must continue to direct limited resources toward constructing ongoing projects, and toward operation, and maintenance, and rehabilitation of existing projects. Therefore we cannot support adding these additional projects to the long list of already authorized projects awaiting Federal funding. Reclamation has several additional concerns with the legislation, which we will mention later in this testimony.

Since late December 2000, when P.L. 106-576 was enacted, Reclamation has been working with local entities in the Lower Rio Grande Valley, the Texas Water Development Board, and the Texas Agricultural Extension Service of Texas A&M University. The first requirement of the public law was issuance of criteria by which Reclamation would administer the law and determine project eligibility for federal funding. These criteria were prepared, shared with state, local and other federal entities and issued in late June 2001, within the six month timeframe required by the law.

Next, the irrigation districts involved with the 19 currently authorized projects and the Texas Water Development Board have worked with Reclamation to begin planning, designing and construction of authorized projects. To date, Reclamation has approved 15 Project Reports and 11 of the projects have initiated construction, five of which are substantially complete and under operation. The 19 presently authorized projects, if constructed, could save a projected 79,000 acre-feet of water, 6.1 million kilowatt hours of energy, and \$742,000 of operation and maintenance expense annually.

Reclamation is administering this program on a reimbursable basis, with each District submitting quarterly requests for payment. To date, Congress has appropriated \$7,625,000 for implementation of this program (\$1.5 million in FY 2003,

\$4.5 million in FY 2004 and \$1.625 million in FY 2005). Of this amount, Reclamation has obligated a total of \$6,438,000 to reimburse Districts for project costs, which represents all available funding appropriated to date. As of the end of March 2005, Reclamation has received reimbursement requests for completed work that exceeds our available funds by approximately \$2.94 million.

The emphasis placed by the Act on the initial 19 authorized projects is primarily on a project's scope, not upon its costs. For example, the scope of each authorized project is defined by the language in the Act itself and in the cited engineering report. In some cases, the specificity of this language has limited the authorization of (and therefore Reclamation's participation in) a project to only a portion of what an irrigation district has proposed to construct. The total project costs of each of these projects are not, however, specified in the legislation or in the cited engineering reports, but are determined once the authorized components are sufficiently developed in the Project Report and a project budget developed. In accordance with Section 4(b) of the Act, the Federal share of each project is then determined to be 50 percent of this total project cost.

In contrast, the emphasis that would be placed by S. 519 on the second 19 projects considered for authorization would be on the project's cost, not upon its scope. Without changing the conditions for implementation of the first 19 projects, S. 519 imposes different conditions for implementation on the proposed 19 projects. For example, unlike the previous two bills, Section 2(b) of S. 519 would amend the Act to authorize virtually any project component that would result in the conservation of water or an improved supply of water, whether or not this component lies within the scope of the cited engineering report for that project. Also unlike the Act, S. 519 would identify a maximum total cost for each project, half of the sum of which equals the identified ceiling. Furthermore, Section 3 of S. 519 maintains separate ceilings for each of the groups of projects; namely, \$47,000,000 (2001 dollars) for projects 1 through 19, and \$42,356,145 (2004 dollars) for projects 20 through 38.

These differences, while not affecting the requirements for project qualification, would require somewhat different treatment of projects with regard to determining scope and cost, depending upon specific project authorizations.

Another concern is that the proposed legislation pre-authorizes projects that have had limited, if any, involvement from the Bureau of Reclamation in the project planning and development process, and which have not undergone Administration review. Although the Administration supports the efforts of local project beneficiaries to address their local water needs, we cannot support either authorization or funds for projects that have not undergone rigorous Administration review.

Madam Chairman, this concludes my testimony. I am pleased to answer any questions.

ON S. 592

Madam Chairman and Members of the Subcommittee, I am William Rinne, Deputy Commissioner of Reclamation. Thank you for the opportunity to testify on S. 592. The Department supports the goals of S. 592.

On July 1, 1997, the State of Wyoming, Nebraska, and Colorado and the United States Department of the Interior entered into a cooperative agreement for Platte River research and other efforts relating to endangered species habitats along the Central Platte River in Nebraska. The purpose of the cooperative agreement is to jointly undertake a basin-wide effort to improve the habitat of four threatened and endangered species along the Platte River. The cooperative study is designed to help develop a basin-wide program to be the reasonable and prudent alternative to minimize the effects of existing and new water related activities in the Platte River Basin.

Glendo Dam and Reservoir is one of several Bureau of Reclamation dams and reservoirs on the North Platte River that operate as an integrated system. The Bureau of Reclamation is required to consult under the Endangered Species Act (ESA) on the operations of the entire reservoir system.

Successful consultation completion will be dependent upon achieving a Recovery Implementation Program (Program) that will serve as a reasonable and prudent alternative for the ESA consultation. A final programmatic environmental impact statement which leads to a Program is scheduled to be completed in the fall of 2005, with a record of decision to follow in December 2005. We anticipate the Governors of the States of Colorado, Nebraska, and Wyoming and Secretary of the Interior will enter into such a Program in April 2006. S. 592 will allow Reclamation to renew the Glendo contracts when the Program is in place.

The intent of S. 592 is to amend the Irrigation Project Contract Extension Act of 1998 to require the Secretary of the Interior to extend each of the water service or repayment contracts for the Glendo Unit of the Missouri River Basin Project for a period of 2 years until December 31, 2007, or for the term of the cooperative agreement entered into by the State of Wyoming, Nebraska, Colorado and the Secretary of the Interior.

To ensure that the intent of this bill to amend the Irrigation Project Contract Extension Act of 1998 is clearly identified, the Department recommends the long title of the bill read as follows: "To amend the Irrigation Project Contract Extension Act of 1998 to extend certain contracts between the Bureau of Reclamation and certain irrigation water contractors in the States of Wyoming and Nebraska."

With this clarification, the Department supports S. 592. Thank you for the opportunity to appear before you today.

Senator SMITH. As I understand your opposition to S. 166, it sounds like you are not opposed to the policy the DRC is advocating but it really comes down to a money thing. Is that about it?

Mr. RINNE. Correct.

Senator SMITH. And the same with S. 251?

Mr. RINNE. S. 251 is, Senator, on the 50/50 cost-share is probably our major opposition to it.

Senator SMITH. So, again, it is more of a money issue than—just the policy that it has got to be 50/50?

Mr. RINNE. The policy of the 50/50 and using—and not using other Federal funds to qualify for 50/50.

Senator SMITH. So, if we put in cautionary language, will the administration support enactment of the bill?

Mr. RINNE. Yes, we would.

Senator SMITH. Okay. And does not the DRC advocate exactly the types of solution that Reclamation is advancing through the Water 25 program?

Mr. RINNE. Yes.

Senator SMITH. I guess we have got to find some money around here. Thank you.

Senator?

Senator THOMAS. That is a brand new idea.

As I understand it, you would like to have this title changed to this little short title, to amend the Irrigation Project Contract Extension Act of 1998 to extend certain contracts between the Bureau of Reclamation and certain irrigation and water contractors in the State of Wyoming and Nebraska.

Mr. RINNE. Yes, it is—I would agree.

Senator THOMAS. Okay. Sounds good. Thank you.

Mr. RINNE. You are welcome.

Senator SMITH. On S. 310, the Newlands project, as consideration for this title transfer, S. 310 allows the use of any amounts previously received by the Federal Government for a lease or sale of land associated with the Fallon Freight Yard, a proposition not supported by the administration.

Is it correct that the land at issue here, where the project headquarters and maintenance yard are located, and the Fallon Freight Yard are two separate tracts of land?

Mr. RINNE. Yes, that is correct, Senator.

Senator SMITH. And what is the proper consideration for the property to be conveyed? Namely, the land associated with the Newlands Project headquarters and maintenance yard facilities?

Mr. RINNE. We would request a new appraisal to do that. There was an earlier appraisal that we have not seen, a Fish and Wildlife Service appraisal, so we feel we need a new appraisal.

Senator SMITH. Would the administration support S. 310 if the consideration section was modified and the TCID had compensated the Federal Government for the land at issue?

Mr. RINNE. Absolutely.

Senator SMITH. I think that is it, Bill. Thank you very much.

Oh, I am sorry. We can take time, Senator.

Senator JOHNSON. No, we do not have to—

Senator SMITH. Okay. Senator Johnson has joined us and has no questions for the Bureau.

Senator JOHNSON. Thank you very much.

Senator SMITH. You are welcome, Senator.

On panel two, we have Wayne Halbert, general manager of the Harlingen Irrigation District from Harlingen, Texas. We have Tod Heisler, executive director, Deschutes River Conservancy of Bend, Oregon; Jim Hill, city of Medford Water Reclamation Division administrator, and he is the chair of the WISE Project Advisory Committee; and Early—excuse me, Ernie Schank, president, Board of Directors of TCID of Fallon, Nevada.

Gentlemen, we welcome you all. We thank you for your traveling so far to be here, to be part of the Senate record, and the leadership you are providing on these issues is noted and again, appreciated.

Why do we not start over here with Wayne? The mike is yours.

STATEMENT OF WAYNE HALBERT, GENERAL MANAGER, HARLINGEN IRRIGATION DISTRICT, HARLINGEN, TX, ON BEHALF OF THE TEXAS IRRIGATION COUNCIL

Mr. HALBERT. Thank you, Mr. Chairman.

Mr. Chairman, committee members and staff, we thank you for the opportunity to testify before you today on behalf of the communities and water districts along the Texas border.

I am Wayne Halbert, general manager of the Harlingen Irrigation District and represent irrigation districts that supply irrigation water to over a million acres of farmland and raw water to municipalities for over 1.5 million people.

Our testimony is in support of S. 519, which amends the Lower Rio Grande Valley Resources Conservation Improvement Act of 2000, to authorize additional projects under that act, and for other purposes.

Our written testimony has been submitted for the record. But in the interest of time and respect to the committee, I would like to summarize my comments here today.

First of all, I want to express our gratitude to the committee for passing previous legislation that has resulted in a great deal of conservation work along the Rio Grande.

Mexico continues to use more and more water the United States used to have available. And the rapid urbanization on both sides of the border increases the demands on the water resource.

These factors force us to step up our water conservation work, to keep a reasonable balance to the users of the resource. With agri-

culture the major user of the Rio Grande water, agriculture water conservation projects are the best source of savings possible.

In your packet are two reports of the success of projects funded as a result of previous legislation passed by this committee. These projects are among the first to be completed. The first report is a project by Cameron County Irrigation District No. 2, which shows a savings of water by this portion of their project equal to the municipal standard the district delivers every year.

The second report is from Hidalgo County Irrigation District No. 2. And this report was compiled by Texas A&M, which did testing before and after their project. Their result show an 81 percent savings of water in the area of the project.*

There are approximately \$30 million worth of projects in the same—in some stage of activity, each of which when completed, would show equivalent savings of water. All of this has been, and will continue to be, a tremendous positive impact to the entire border region.

Two things that authorization of this—this new authorization does for us: No. 1, it encourages our board of directors. All of our districts are formed by boards of directors, who are the landowners. It encourages them to seek ways to fund the cost-share, the 50 percent of the projects from the district's perspective. And No. 2, NAD Bank funds, North American Development Bank funds, have been authorized for many of the projects that are listed in this legislation. The NAD Bank funds put a great deal of weight on the authorization of projects for the awarding of NAD Bank dollars. So, it is important that these projects be authorized for us to be able to have access to those funds.

We owe a great deal of thanks to Senator Hutchison and this committee for their support on these projects and for their continued support on the projects of S. 519.

Thank you for your time and interest and we are available for—to answer any questions.

Senator SMITH. Thank you very much.

[The prepared statement of Mr. Halbert follows:]

PREPARED STATEMENT OF WAYNE HALBERT, GENERAL MANAGER OF THE HARLINGEN IRRIGATION DISTRICT, HARLINGEN, TX, ON BEHALF OF THE TEXAS IRRIGATION COUNCIL

Mr. Chairman, Committee Members and staff, thank you for the opportunity to testify before you today on behalf of the communities and water districts along the Texas Border. I am Wayne Halbert, General Manager of the Harlingen Irrigation District and represent irrigation districts that supply irrigation water to over a million acres of farmland and raw water to municipalities for over 1.5 million people. Our testimony is in support of S. 519, which amends the Lower Rio Grande Valley Resources Conservation and Improvement Act of 2000, to authorize additional projects under that Act, and for other purposes.

For the past several years the Border Region has been deeply involved in Integrated Resource Management studies to determine a direction for our communities to take in water resource management. The State of Texas gave direction to these studies in 1997 with legislation that required even more comprehensive determinations of water resource status. These studies have given us some stark revelations as to unprecedented predictions in population growth and needs for water resources over the next few years. The Rio Grande Valley Irrigation Districts have partnered with the Bureau of Reclamation on projects since the early 1950's. Most of the Districts have utilized BOR loan programs to do conservation projects. Many developed

*The report has been retained in subcommittee files.

projects remain undone due to a lack of funding available to meet the needs. Districts have systematically chipped away at these projects within their budget restraints.

Today water supplies are in better shape than they have been since 1992, however the twelve years of drought or near drought conditions taught us the frailty of our situation. The slow progress of completing water conservation projects as local funds are available has become obviously unacceptable and has placed the agricultural and municipal supply needs in peril. We saw exhausted water supplies that caused thousands of acres of land to become unproductive and unable to sustain the industry that depends on that production. Explosive developments in Mexico, which share the waters of the Rio Grande, have deprived the United States of a greater amount of the water resource, accelerating the crisis. Admittedly a part of the Mexico issue is drought related but a greater part is a change in Mexico's operations of their system that has deprived the U.S. users of much of the water supply we traditionally have received. Recent flood waters and negotiations with Mexico have reportedly settled the debt issue and Mexico's violation of the terms of the 1944 Water Treaty but no long term solutions, thus insuring that this will occur again.

The population explosion in the Rio Grande Valley area continues to be a real concern in dealing with our water resource issues and balancing the resource between our urban growth needs and our continuing farm needs. As if our population problems are not enough, Mexico's along the border are many times worse and they draw from the same resource.

All of these pressures turn up the heat on the water resources for the Rip Grande. There are many valid concerns and frustrations over various issues that we desperately need congressional help with, but we also want to offer you a blue print for at least some of the solutions.

In the comprehensive water resource studies of which copies of these reports have been provided to this committee, an emphasis was made to seek solutions that would provide balance to the fragile economy and environment of the border region. The committees and consultants were charged with the responsibility of finding ways to provide an adequate water supply for the least amount of impact, both financial and physical. Our goal was to find enough firm yield water to provide for the municipal, industrial, environmental and agricultural needs of the region and to dovetail that plan into the expected growth needs of the Valley.

The studies looked at desalination, reverse osmosis, runoff reuse, groundwater recovery, new dam sites, long distance pipelines and any other opportunity that presented any semblance of credible water supply. After several years of study it has become apparent that because agriculture uses 85% of the water available, agriculture must be the target for the major water conservation projects.

S. 519 amends original authorization for the Bureau of Reclamation to implement the programs and projects that surfaced as the most cost effective way to provide for the water resource needs of the Texas Border region. Most of the irrigation systems were built in the early 1900's and many of the delivery systems that are the lifeblood of the municipalities as well as agriculture must be renovated. Improvements to these canals would provide annually one half of a years current municipal needs in saved water. Other conservation projects that include volumetric accounting of the water and new technologies in water delivery could save another 75% of the municipal current annual needs. All of these projects can be accomplished for construction costs of from \$0.02 to \$3.07 per 1000 gallons which projects on a debt service basis from a fraction of a cent to \$0.23 per 1000 gallons of water saved. The projects outlined in this legislation would once again increase dramatically the water available for municipal and industrial use without collapsing the agricultural economy.

The agricultural economy is extremely important to our region as a large portion of the workforce is dependent on the agriculture industry. The Border aspects of the region only increases this problem and agricultural layoffs create immediate social problems far beyond the normal expectations. We have testified twice before this committee on the forerunner of this legislation that an undependable water supply could do irreparable damage and would push our local unemployment figures out of sight. We have previously presented a report from Texas A&M that estimates as many as 30,000 jobs have were lost during the 1990's and up to a billion dollars in lost revenues directly related to the water shortage on the Mexico shortfall alone.

Today we are bringing examples of the fruits of legislation you passed a few years back. We have included in our testimony two reports from district projects that have recently been completed. One shows a savings of water equal to all the water the cities they serve use in a year. The other project shows reduction in canal water losses at 81% for the project area involved. The dollars your previous legislation has authorized and appropriated have reaped huge benefits to the Rio Grande Valley.

The additional projects requested in this amendment are of utmost importance as authorized projects encourage the local districts by freeing up funds from the North American Development Bank, state and local sources to begin the projects. We recognize that we may have to live and grow on less water than we have been accustomed to. We have lost farms and businesses that have been a part of the Rio Grande Valley heritage for over a hundred years, mostly because water resource demands during the recent drought period have been inadequate. The greatest impacts of these losses today are to our agricultural community; however, the associated impacts have taken their toll on the Border Region as a whole. The cost of water to the general public is on the rise and will continue to do so as the scarcity of the resource manifests itself. Water shortages to the general populace have been held to a minimum but if we do not act we could experience a crisis in this arena also.

This legislation allows us to turn these tragic losses around and provide new life and new hope to the whole Rio Grande Border Region. The infrastructure that is needed to solve these problems is apparent. Districts have planned these needed projects for years and anticipated accomplishing them over the next twenty or so years. Testimony today has shown you that we do not have that luxury. Every few acre feet of water not conserved is another family farm gone, another few jobs lost, another business who had to close their doors. Our future is in your hands.

We appreciate your support for S. 519. Thank you for your attention.

Senator SMITH. Ernie Schank.

STATEMENT OF ERNEST C. SCHANK, PRESIDENT OF THE BOARD OF DIRECTORS, TRUCKEE-CARSON IRRIGATION DISTRICT, FALLON, NV

Mr. SCHANK. Mr. Chairman and Mr. Johnson, I am glad to see you, because I had an airplane that I had to catch tonight and I really did not want to have to stay again overnight.

I am Ernest C. Schank, president of the Board of Directors of the Truckee-Carson Irrigation District, also known as TCID, located in Fallon, Nevada. We are the home of one of the first five authorized projects and the first one to start construction. We boast U.S. Bureau of Reclamation specification 0001, which was the Derby Dam facility. I am here to testify today in support of S. 310.

The legislation would require the Secretary of the Interior to convey the Newlands Project Headquarters and Maintenance Yard Facility to the TCID. I would like to thank Senators Reid and Ensign and Congressman Gibbons for introducing this legislation, Commissioner Keys and the Bureau of Reclamation people for working cooperatively with us on this proposal.

I did submit written testimony, and I will make a few comments that I think are of interest, but would ask that my written testimony be included in the record.

Senator SMITH. Without objection.

Mr. SCHANK. In 1903, over 100 years ago, the 40-acre parcel, which is the subject of this transfer proposal and is the site of the current office and maintenance yard for TCID, was withdrawn for Reclamation purposes, as a part of the Newlands Project.

This title transfer proposal is narrowly tailored to include approximately 35 acres of the 40-acre parcel and should not be viewed as a project title transfer.

In 1926, the TCID entered into a repayment contract with the U.S. Government, to take over operations and maintenance of the Newlands Project. At that time, the TCID moved into an office and maintenance yard on property that the Government had purchased from the U.S. Reclamation Service. The cost of this land was included as a project cost that has since been repaid by the TCID.

The Fallon Freight Yard and the Post Office currently occupy these properties.

By 1975, the TCID had outgrown those original facilities, and moved to the 40-acre parcel that is the subject of this title transfer proposal. The land was available because it was not suited for growing crops and was therefore never homesteaded or patented, as were acres that were irrigable.

All of the improvements to this property have been made by the TCID, the U.S. Government has not contributed to these improvements. In the early 1990's, the Bureau installed a field office on the property, tying into our improvements. It occupies approximately five of the 40 acres and would remain with the U.S. Government.

By 1996, the TCID had repaid the original construction charges designated for repayment. Thus the Newlands Project is considered to be a paid-out project under Reclamation law.

In 1996, the TCID entered into an operation and maintenance contract with Interior. Because of new mandates regarding water measurement and water control, the TCID needs to expand our facilities.

The transfer is necessary so that TCID can obtain financing, and I might mention private financing, for the necessary improvements, the first of which will be a new building, office building.

Consideration for the property will be all of the accrued moneys received from the lease of our old maintenance yard, now known as the Fallon Rail Freight Yard, which are currently held in a reclamation fund in the name of the Newlands Project. And any future lease payments and sales proceeds when provisions of Public Law 107-339 are completed and the property transfers to the city of Fallon.

The water users of the Newlands Project paid for an office and maintenance yard once and should not have to pay again. Early in February 2004, after working with the Bureau of Reclamation and both sides of the aisle on the Republican Resource—House Resources Committee, H.R. 2831 was approved under suspension in the House with no opposition.

S. 318 is almost identical to H.R. 2831, which has been reintroduced by Congressman Gibbons as H.R. 540 in this current session.

TCID is a not-for-profit governmental agency, organized under the laws of the State of Nevada. TCID provides a service for the public by maintaining and operating the Newlands Project and has since 1926, and delivers water in accordance with existing contracts at minimal cost to U.S. Government.

It is important to emphasize that this withdrawn land will continue to be used for a particular public purpose, that is the operation and maintenance of a Federal water project.

TCID is a local job provider with 55 to 60 employees and contributes, thereby, to the regional economy.

The Governor, and the State, and other elected officials in our State support this transfer title.

I am not aware of any opposition, from any interested entities within the State of Nevada, to this transfer. I would like to request that the subcommittee include the letters from the Governor and several other elected officials in the record of this hearing; and I will provide those at the conclusion of my testimony.

I thank you for allowing me to appear today and will be glad to answer any questions.

Senator SMITH. Thank you, Ernie. We will include those letters in the record.*

[The prepared statement of Mr. Schank follows:]

PREPARED STATEMENT OF ERNEST C. SCHANK, PRESIDENT OF THE BOARD OF DIRECTORS, TRUCKEE-CARSON IRRIGATION DISTRICT

Mr. Chairman, Members of the Committee, I am Ernest C. Schank, President of the Board of Directors of the Truckee-Carson Irrigation District (TCID) in Fallon, Nevada. I am here to testify in support of S. 310.

This legislation would require the Secretary of the Interior to convey the Newlands Project Headquarters and Maintenance Yard Facility to the TCID. This title transfer is narrowly tailored to only transfer ownership of federal land currently being used by the TCID for an office and maintenance yard facility.

We would like to thank Senator John Ensign R-NV and Senator Harry Reid D-NV for introducing this legislation in the Senate and Congressman Jim Gibbons R-NV for introducing companion legislation in the House, (H.R. 540), to make this title transfer possible. We also would like to thank Commissioner John Keys and the Bureau of Reclamation (BOR) for working cooperatively with us on this proposal.

The Newlands Project, one of the first five Reclamation projects, was authorized on March 14, 1903 and provides for irrigation and other purposes in the lower Carson River Basin near Fallon, in western Nevada. Construction began in 1903 on the first project works, the Derby Diversion Dam and the Truckee Canal. The TCID was created under the laws of the State of Nevada in 1918 as a non-profit governmental agency to undertake the building of a drainage system and begin operating and maintaining the project works beginning in 1926 under contract with the United States.

In 1926, the TCID entered into a repayment contract with the United States Government. The TCID moved into the office and maintenance yard previously occupied by the United States Reclamation Service (USRS). These properties were held in fee title, and the costs of those assets were repaid by the water rights owners of the TCID although a title was never transferred from the U.S.

By 1975, the TCID had outgrown those original facilities, so we moved to a 40-acre parcel of land withdrawn for Reclamation purposes in 1903. The TCID built a new office and maintenance shop facility on this withdrawn land. As withdrawn land, this parcel previously to this time was available for homesteading, proving up, and patent. The land remained unimproved as it was not irrigable because of the high clay and alkaline content of the soil. It was, however, suitable for an office and maintenance yard at one location whereas the previous facilities were at two separate locations.

The original lot where the office had been was eventually transferred by the Department of the Interior (DOI) to the United States Postal Service. The mechanism to dispose of the original maintenance yard was passed in the 107th session in legislation titled "Fallon Rail Freight Loading Facility Transfer Act" (P.L. 107-339). Provisions were approved by Congress for the transfer of title to the City of Fallon. The pending transfer has not yet taken place.

Today the parcel which we are seeking to transfer and the attendant improvements make up the hub of operation and maintenance of the Newlands Reclamation Project. The TCID has rented the 40 acres for a nominal fee from the BOR since 1972. The value of the land was increased significantly by the improvements all made by the TCID. No federal monies have been used for improvements.

In 1996, the TCID entered into an operation and maintenance contract with the DOI. A part of that contract requires an aggressive water measurement program. This modernization in water measurement at each turnout and the increased automation of water control in the many canals and laterals require more employees, more computer and electronics space, and more storage space for records.

In 1996, the BOR certified that the TCID had repaid the U.S. Government the original construction charges designated for repayment. At this time, the Newlands Project is considered to be a "paid out project" under Reclamation law. Although the original construction charges and other costs to the U.S. have been repaid, no title to any of the Newlands Project facilities have been transferred to the TCID.

Although the U.S. Government has leased the land to the TCID for a nominal value, the lease will eventually expire and the TCID would like to own the land to

*The letters have been retained in subcommittee files.

make permanent improvements to existing facilities that have become outdated. The transfer of approximately 35 acres of a 40-acre parcel of federal land is to allow the TCID to make permanent improvements on the land for continued operation and maintenance of the Newlands Project. The remaining approximately five acres will be reserved for a local Bureau of Reclamation field office.

The TCID has out grown its office and shop and needs to expand. The transfer is necessary so that financing can be obtained for the improvements—the first of which will be a new office building. The TCID has made all previous improvements to this land. In order to secure the necessary financing to make the improvements we need to own the ground upon which the improvements will stand.

The legislation would direct the transfer pursuant to a memorandum of agreement we have entered into with the Bureau. The conveyance would not occur until the National Environmental Policy Act has been fully complied with. Moreover, any necessary environmental site assessments, remediation or removal would have to be completed.

Consideration for the property will be all the accrued monies received from the lease of our old maintenance yard, now known as the “Fallon Rail Freight Yard” which are currently held in a reclamation fund in the name of the Newlands Project and any future lease payments and sales proceeds when provisions of 107-339 are completed and property transfers to the City of Fallon.

The Governor of Nevada supports this title transfer. I would like to ask that the subcommittee include the attached letter from Governor Guinn, dated July 11, 2002, in the record of this hearing.

On October 15, 2003, during the 108th Congress, I appeared before the House Subcommittee on Water Power and Resources, and testified in behalf of H.R. 2831 sponsored by Congressman Jim Gibbons R-NV. Early in February of 2004 after working with the Bureau of Reclamation and both sides of the isle on the House Resources Committee, the Bill was approved under suspension in the House with no opposition. S. 310 is almost identical to H.R. 2831 from the 108th Session and H.R. 540 introduced in this 109th Session, except a section of definitions has been added.

In closing, I want to emphasize that the TCID provides a service to, the public by maintaining and operating the Newlands Reclamation Project and delivering water in accordance with contracts previously entered into between the United States and the water rights owners of the Project. We provide jobs and those employed thus provide assistance to the Counties, the State of Nevada and the U.S. government as taxpayers.

I am not aware of any opposition from any interested entity within the State of Nevada to this title transfer. Nevertheless, we will commit to addressing any issues that are raised as this legislation moves forward.

This concludes my remarks. Thank you for allowing me to appear before your committee today. I would be pleased to answer any questions you might have.

Senator SMITH. What time is your flight?

Mr. SCHANK. I leave from Baltimore-Washington at 8:15, so I will have time now.

Senator SMITH. Okay. We do not want to——

Mr. SCHANK. But I was worried.

Senator SMITH. All right. Well, we do not want you to miss your flight.

Jim Hill, a constituent, welcome.

STATEMENT OF JIM HILL, CITY OF MEDFORD WATER RECLAMATION DIVISION ADMINISTRATOR, MEDFORD, OR, ON BEHALF OF THE WATER FOR IRRIGATION, STREAMS AND ECONOMY (WISE) PROJECT ADVISORY COMMITTEE

Mr. HILL. Thank you. My name is Jim Hill. I am the water reclamation division administrator for the city of Medford, and also the chair of the WISE Advisory Committee.

Chairman Smith, I want to thank you for the opportunity to provide testimony in support of S. 251, which would authorize the Bureau of Reclamation to conduct a water resource feasibility study

for the Little Butte-Bear Creek sub-basins in Oregon, also known as the WISE Project.

I have submitted written testimony that I request be put into record.

Senator SMITH. Without objection.

Mr. HILL. Thank you.

Today's testimony is presented on behalf of the 19 agricultural, municipal, environmental, and water resource agencies and groups that comprise the WISE Project Advisory Committee; and will address the need for the WISE Project, as well as the need for Reclamation authorization as lead agency for the project.

At this time I would like to thank both you and Senator Wyden for introducing and supporting this legislation. It is great to have two Senators that work so well together and put the interest of the citizens first.

Reclamation is the architect of the Talent Project, which has provided irrigation water for the growers in the Bear Creek Valley since 1958; and utilizes flows from Bear Creek and Little Butte Creek, the reservoir system connected to the two streams, and over 200 miles of canals to irrigate over 34,000 acres of prime agricultural land.

The Talent Project also provides flood control, and power generation, and the reservoir system is heavily used for fishing, and water sports.

Both Little Butte Creek and Bear Creek are tributaries to the Rogue River, a world class salmon and steelhead river. Little Butte Creek is prime Coho spawning habitat and its health is a key component of the continued economic success of the Rogue River fisheries, which extend over 130 miles downstream to the ocean.

Since the initial construction of the Talent Project, considerable growth has taken place in southern Oregon, as you have mentioned previously. And we are now suffering from unreliable and inefficient irrigation water supplies, degraded water quantity and quality affecting both the fish and the recreation values of our reservoirs, streams, and rivers.

Even the municipal water supply for the Medford Water Commission is impacted by Little Butte Creek's reduced water quality.

About 5 years ago, local interests started planning efforts to address the above-mentioned water resources issues for the next 50 years. At the same time, Reclamation was completing its Bear Creek-Little Butte Creek Water Management Study Appraisal Report, a lot, which analyzed water conservation measures to improve irrigation deliveries, enhance streams flows, and improve water quality and fish habitat in Bear Creek and Little Butte Creek, including the use of reclaimed effluent from the Regional Water Reclamation Facility as an additional valuable source of irrigation water. It ends up that these two groups were doing the same things, so we put it together and called it the WISE Project, and that is what we are here to talk about today.

On June 2, 2004, Reclamation and the city of Medford entered into a Memorandum of Agreement, which defines the roles and responsibilities of each agency in the development and preparation of a WISE environmental study. Reclamation's role will be to provide

technical review of the NEPA process and assure that NEPA compliance is achieved.

Medford, with Reclamation input on the selection process, is responsible for hiring a consultant to prepare the study with Reclamation oversight and technical review.

It is estimated that the cost for the WISE study will be \$2.8 million. That is for the feasibility consultant, and it is Medford's responsibility to secure. S. 251 would authorize the appropriation of \$500,000 for Reclamation to act as lead agency and provide the necessary technical oversight.

Medford has retained a consultant for the first phase of the study. And the preliminary scoping work has been done, and we are now at a point where your committee's approval of S. 251, authorizing Reclamation to act as lead agency for the WISE study and appropriating \$500,000, is critical, so we can start the next process, which is the formal scoping process and filing of the Notice of Intent.

And just in one quick response, I first testified before the House, introducing this legislation, back in October 2003; and I just wanted to note that this is the first time that the Bureau has brought up the issue of a 50/50 cost share. We were never aware of that and it has been like 2 years.

It has kind of caught—it has caught me by surprise. We will go back and we will have to investigate that; because if that is the only thing and truly is the only thing we can see what we can do about resolving that issue regarding getting passage of this legislation.

And once again, I want to thank you for the opportunity to submit this testimony, and this is really important for Little Butte Creek and Bear Creek and the entire Rogue Valley and the people around there, because they depend heavily upon the water resources in that area.

Thank you very much.

Senator SMITH. Thank you very much.

[The prepared statement of Mr. Hill follows:]

PREPARED STATEMENT OF JIM HILL, CITY OF MEDFORD WATER RECLAMATION DIVISION ADMINISTRATOR, ON BEHALF OF THE WATER FOR IRRIGATION, STREAMS AND ECONOMY (WISE) PROJECT ADVISORY COMMITTEE, ON S. 251

Chairman Domenici, thank you for the opportunity to provide testimony in support of S. 251, which would authorize the Secretary of the Interior, acting through the Bureau of Reclamation (Reclamation), to conduct a water resource feasibility study for the Little Butte/Bear Creek Subbasins in Oregon. This project has become known as the Water for Streams, Irrigation and the Economy (WISE) Project.

Today's testimony is presented on behalf of the nineteen agricultural, municipal, environmental and water resource agencies and groups that comprise the WISE Project Advisory Committee, and will address the need for the WISE Project, as well as the need for Reclamation authorization as lead agency to provide project review and oversight for the Feasibility Study and Environmental Impact Statement (FS/EIS).

At this time I would like to thank our Senators Smith and Wyden for introducing this legislation. It is cooperative and proactive projects such as this that help to avoid the water resource management controversies that often plague western states. It's great to have two Senators that work so well together, and put the interest of the citizens first.

BACKGROUND

Reclamation was the architect for the Talent Project, which has provided irrigation water for the growers in the Bear Creek Valley since 1958, utilizing flows from Bear Creek and Little Butte Creek, the reservoir system connected to the two streams, and over 200 miles of irrigation canals. The Bear Creek Valley is famous for its pears, and the Bear Creek Corporation, which grows, processes and distributes the pears, is the largest employer in the valley. In total there are over 34,000 acres of agricultural land in the Bear Creek Valley.

The Talent Project has also provided flood control, power generation and recreational benefits. The several reservoirs that are part of the irrigation system also provide fishing and water sports for the citizens of Jackson County.

The Rogue River is a world class salmon and steelhead river, visited by anglers from around the world. Both Little Butte Creek and Bear Creek are tributaries to the Rogue, and serve as spawning areas for the Chinook and Coho salmon. Little Butte Creek has been designated as prime Coho spawning habitat, and its health is a key component of the continued economic success of the Rogue River fisheries, which extend over 130 miles downstream to the ocean.

Since the initial construction of the Talent Project, considerable growth has taken place in southern Oregon. The Little Butte Creek and Bear Creek watersheds now suffer from unreliable irrigation water supplies during drought years and degraded water quantity and quality for native anadromous salmonids and other uses during low flow periods. The aging and increasingly inefficient water delivery infrastructure results in high water losses to irrigation districts and water users. Full appropriation, if not over-appropriation, of water in Bear Creek and Little Butte Creek threatens the reliability of irrigation water supply. Degraded water quality and low flows are detrimental to anadromous salmonids and other species. Increasing stream and river withdrawals and decreasing reservoir levels adversely affect aesthetic recreation values of reservoirs, streams, and rivers.

In addition to the agricultural and environmental issues, growth in the Bear Creek Valley has increased the demand for additional drinking water, and has generated larger quantities of wastewater, which is currently treated and discharged into the Rogue River. Degrading water quality in Little Butte Creek directly affects the Medford Water Commission (MWC) municipal raw water supply, which is located downstream of the confluence of Little Butte Creek with the Rogue River. Increasingly stringent regulatory discharge requirements also dictate that the Medford Regional Water Reclamation Facility (RWRF), which treats wastewater from approximately 120,000 customers in the Bear Creek Valley, seek alternative means of treated effluent disposal during critical summer flow periods.

In September of 2000 the MWC prepared a scoping report for what was then called the Irrigation Point of Diversion (IPOD) project. The MWC withdraws water from the Rogue River just downstream from the confluence of Little Butte Creek. The intent of the IPOD project was to move the irrigation points of diversion from Little Butte Creek to the Rogue River downstream of the MWC treatment plant, thereby improving the water quality and quantity in Little Butte Creek for the salmon, while at the same time improving the water quality at the MWC treatment plant intake.

At the same time, Reclamation was completing its Bear Creek/Little Butte Creek Water Management Study Appraisal Report, which came out in February of 2001. The purpose of the study was to analyze water conservation measures that would reduce losses in the irrigation delivery systems in the Bear Creek subbasin. The saved water would then be redistributed to (1) improve irrigation deliveries, and (2) enhance streams flows and improve water quality and fish habitat in Bear Creek and Little Butte Creek. One of the recommended options involved piping the Hopkins Canal, which serves the Rogue River Valley Irrigation District (RRVID), and pumping reclaimed effluent from the RWRF into the pipeline as an additional valuable source of irrigation water.

The IPOD Steering Committee which had expanded to include the RWRF, irrigation districts, environmental groups, and any other concerned interests, recognized that additional outside funding assistance would be required for the project to go ahead. The Committee asked Reclamation, because of its history with the Talent Project, to provide funding support for the IPOD Project as a key component of its February 2001 appraisal report. Reclamation pointed out that a Feasibility Study and Environmental Impact Statement (FS/EIS) would be required before it could participate. At this time the IPOD Steering Committee joined forces with Reclamation to develop the WISE Project, and to seek Congressional authorization for Reclamation to act as lead agency for the WISE FS/EIS.

WHAT IS THE WISE PROJECT?

The WISE Project is a proposed water management project to improve the Bear Creek and Little Butte Creek watersheds within Jackson County in southern Oregon. The WISE Project aims to use water wisely to benefit agriculture, irrigation, municipalities, the environment, recreation, and fisheries interests. The defined study area includes the Bear Creek and Little Butte Creek watersheds and their associated tributaries and reservoirs. The purpose of the WISE project is to:

- Improve efficiency of water deliveries to the Medford, Rogue River Valley, and Talent irrigation districts.
- Improve irrigation water supply reliability for the Medford, Rogue River Valley, and Talent irrigation districts.
- Improve water conservation through both system-wide and on-farm irrigation improvements.
- Improve water quantity, water quality, and water reliability for native anadromous salmonids.
- Improve aesthetics and recreation values of reservoirs, streams, and rivers.
- Improve water quality at the MWC Water Treatment Facility intake by improving water quality in Little Butte Creek.

LOCAL COLLABORATION

The WISE project is a collaboration of virtually all parties in the Bear Creek and Little Butte subbasins with an interest in water resources management. As a follow up to the IPOD Congressional letter of support, a Memorandum of Support was circulated for signature. Over 25 agencies and groups signed on in support of the WISE project. These groups include the Farm Bureau, cities throughout the valley, the irrigation districts, Oregon Water Trust, Headwaters, and the Sierra Club, to name a few. Irrigators, environmentalists and municipalities all stand to benefit from the WISE project, and are active participants. The IPOD Steering Committee members also signed a Memorandum of Understanding and formed the WISE Project Advisory Committee (PAC). Even with this local support, though, there is a need for Reclamation authorization to oversee the project. The following are the WISE PAC members: City of Medford; Medford Water Commission; Talent Irrigation District; Medford Irrigation District; Rogue River Valley Irrigation District; Jackson County Farm Bureau; Jackson Soil & Water Conservation District; Bear Creek Watershed Council; Little Butte Creek Watershed Council; Bear Creek Corporation; Oregon Water Trust; WaterWatch; Oregon Watershed Enhancement Board; Oregon Water Resources Department; Rogue Basin Coordinating Council; Rogue Valley Council of Governments; Bureau of Reclamation; Rogue Valley Sewer Services; Jackson County.

RECLAMATION/MEDFORD MOA

To address impending water supply and regulatory issues, the WISE project proposes to modify and supplement the Talent Project system to improve stream flows and water quality, improve irrigation system efficiencies, and utilize reclaimed effluent from the RWRP as an additional irrigation water source. Due to the complexity of the project and history of Reclamation involvement in the Talent Project, Reclamation needs to be authorized to act as lead agency at the very beginning of the WISE project, during preparation of the FS/EIS.

On July 2, 2004, Reclamation and the City of Medford entered into a Memorandum of Agreement (MOA), which defined the roles and responsibilities of each agency in the development and preparation of the FS/EIS for the WISE Project. Reclamation's role will be to provide technical review of the FS/EIS process, and assure that NEPA compliance is achieved. Medford, with Reclamation input on the selection process, is responsible for hiring a consultant to prepare the FS/EIS in accordance with Reclamation oversight and technical review.

FUNDING FOR WISE FS/EIS

It is estimated that the cost for the City of Medford to hire a consultant to prepare the WISE FS/EIS will be \$2.8 million. Reclamation has estimated that the cost to act as lead agency and provide technical oversight will not exceed \$500,000. Per the MOA, Medford is responsible for securing the funds necessary to hire the FS/EIS consultant. S. 251 includes a provision authorizing the appropriation of \$500,000 for Reclamation to act as lead agency and provide the necessary technical oversight.

Medford has already secured funding to hire a consultant for the first phase of the FS/EIS. The preliminary scoping work has been done, and we are now at a point where your committee's approval of S. 251 authorizing Reclamation to act as lead agency for the WISE FS/EIS and appropriating \$500,000 to fund Reclamation's participation is critical, so that we can file the Notice of Intent and start the technical alternatives analyses.

Thank you once again for the opportunity to submit testimony on this matter that is so important to the citizens of the Little Butte Creek and Bear Creek Basins of Oregon, and to those around us that may well be positively impacted by the efforts of the WISE Project. We are available at any time if you, your staff or committee members would like further information.

Senator JOHNSON. Mr. Chairman?

Senator SMITH. Yes.

Senator JOHNSON. I regret that I am going to have to excuse myself. I do, however, have a series of questions that, with your consent, I would submit into the record to be directed toward the panel members of the two panels that were here today.

Senator SMITH. Thank you. We will certainly include those in the record. And thank you, Senator, for being here.

We are also joined by Senator Salazar of Colorado. Welcome.

Senator SALAZAR. Thank you, Senator Smith.

Senator SMITH. Do you have an opening statement or anything you want to say at this time?

Senator SALAZAR. I do, thank you, Mr. Chairman. I would only say that I am very interested in general in the water issues that you are working on, and the legislation that you are discussing today. And I recognize, like my colleagues on this committee, the great importance of water, especially in the western states; and so I very much look forward to working with you.

And I wanted to stop by, Mr. Chairman, because this was our first meeting of this subcommittee.

Senator SMITH. Thank you very much, Senator. Colorado is not unlike a lot of places in eastern Oregon, same sorts of water issues, so on.

Senator SALAZAR. Did you hear about that pipeline we are trying to build from Oregon to Colorado?

Senator SMITH. Yes, I heard about that. I heard about that. No, just kidding.

[Laughter.]

Senator SMITH. It is interesting. What is the cubic feet of the water in the Colorado? A good year is 75 million, 100 million; and I think the Columbia River is 300 million, so it is—we have got water up there but it needs to stay there.

Senator SALAZAR. You have got a lot more water in Oregon than we do in the Colorado River Basin. That is for sure.

Senator SMITH. Tod, are you related to the Heislars of Hepner?

Mr. HEISLER. No.

Senator SMITH. Okay. All right. Well, we are glad to have you here anyway.

Mr. HEISLER. Thank you very much.

[Laughter.]

Senator SMITH. Annie Heisler was on the Pendleton Round-Up court with my daughter.

Mr. HEISLER. Yes.

Senator SMITH. And it is a great family in that part of the world.

Mr. HEISLER. I have a sister named Annie, but it is not the same one.

Senator SMITH. She was not on the Roundup Court, then.

Mr. HEISLER. No, she was not.

Senator SMITH. Tod, the mike is yours.

**STATEMENT OF TOD HEISLER, EXECUTIVE DIRECTOR,
DESCHUTES RIVER CONSERVANCY, BEND, OR**

Mr. HEISLER. All right. Well, thank you very much, Senator Smith. I appreciate your support and Senator Wyden's support for S. 166 and for giving me the opportunity to testify about the critical need to re-authorize the Deschutes River Conservancy.

There are only two changes from the 2000 authorization that we are seeking. The new bill extends for 10 years but does not increase the \$10 million of Federal funding and modifies the quorum requirement.

The Deschutes River Conservancy uses a balanced approach and seeks to satisfy all of the critical needs for water in the basin, whether they are farmers, for tribes, growing cities, or the streams.

The DRC is pioneering a proactive, collaborative approach intended to avoid conflict and litigation and increase water supply in the most cost-effective manner possible. So, the Deschutes River Conservancy, we believe, is a clear alternative to the Klamath Basin-style conflicts south of us.

The Federal investment from all agencies in the Klamath Basin will exceed \$100 million in this fiscal year. By the time it is over, the Klamath could consume over \$1 billion of Federal funding.

The Deschutes is one basin to the north of the Klamath and we know that all of the conditions that created conflict in the Klamath are also present in the Deschutes. Those conditions are over-appropriated streams, causing long stretches of them to run nearly dry in the summer, poor water quality, a number of stretches listed in the 303(d) list under the Clean Water Act. We have an endangered species, the bull trout. And with the re-licensing of the Round Butte Complex, the hydroelectric complex in the middle of the basin, we are going to see some more listed species up in the upper basin for the first time in 50 years; that would be Chinook salmon and steelhead.

So of course, we also have farmers who are trying to make a living on the land and struggling doing that in central Oregon these days. And we have the fastest growing cities in Oregon; and I have been told some of the fastest growing cities in the nation.

So, these are all the ingredients for conflict in a big way. So we think that the question is not whether an adjustment will be needed in the Deschutes but rather when it will be made and how much it will cost. And so the more delay, the more there is potential for conflict. And when conflict and litigation emerge, we all know the price to fix the problem skyrockets.

So, a relatively modest investment now cannot meet the need for a much larger investment in the future. So, how does the DRC avoid conflict and produce cost-effective solutions?

Well, it starts with its basic structure. We were created as a 501(c)(3) organization to bring all of the competing interests for water together in one body. We represent private interests and

public interests; ranching, timber, tourism, development, environment, Federal, State, and local agencies.

We also focus on the win-win solutions. We made steady progress—is being made. And we have restored over 100 cfs of stream flow, while firming up water supplies to farmers.

One of the primary ways to do that is through conservation projects. Those irrigation canals on average lose 50 percent transmission loss due to seepage. So, you put the water in a pipe and you have 100 percent gain. You double the water supply available for all of these competing uses. We have transferred permanently, in stream, 20 cubic feet per second from—of conserved water from those kinds of projects already.

We also focus not just on water infrastructure but on water marketing. We have an annual water leasing program that has put 80 cubic feet per second in the Deschutes River while protecting farmers' water rights from forfeiture.

We have financed these projects from a great diversity of sources. We are not too reliant on the funding that we receive from Reclamation. For every dollar of Reclamation investment, the DRC has obtained three dollars of matching support.

We have been in business now for about 9 years and we are really poised to scale this up to a level at which it can really make a difference and have the impact that is needed in order to avoid the Klamath.

We have got a project in design right now with Morris Unit Irrigation District. That single project will return 20 cfs to the stream. It would improve water reliability to that irrigation district. And it would save them over \$200,000 a year in power.

So, we want to scale up with the conservation, the water banking, and marketing. We believe this is the way to solve the problem.

So, Secretary Norton came to town, to Bend, just 8 months ago to tout our successful effort. And I would like to conclude with a quote from her article in that summer on the drought water in the West.

She said, "The DRC has leveraged Federal funds with other cost-share dollars to complete a number of important ecosystem restoration projects and set up the Deschutes water bank."

She concludes by saying, "In the final analysis, long-lasting solutions to chronic water shortages will come from the people who are most effected. The difficult work of preventing conflict must be addressed by local communities in long-range collaborative efforts that focus Federal, State, and local resources on conservation and alternative water supplies; and by assuring that the projects are locally driven practical solutions."

The Secretary's words describe precisely what the Deschutes River Conservancy is. Our collaborative approach will be more cost-effective than an adversarial approach. We have the ability to match Reclamation investment three-to-one. Our role in the basin is fundamental. We have catalyst, convener, facilitator of the diverse stakeholders. Our leadership and technical expertise is critical to the success at the local level.

So, we strongly urge you to re-authorize and find appropriations for the Deschutes River Conservancy and to keep water manage-

ment in the Deschutes Basin on a positive track for years to come. Thank you very much.

[The prepared statement of Mr. Heisler follows:]

PREPARED STATEMENT OF TOD HEISLER, EXECUTIVE DIRECTOR,
DESCHUTES RIVER CONSERVANCY

SUMMARY

Reauthorization of the Deschutes River Conservancy (DRC) is critical to the development of fair and rational water allocation to tribes, cities, farmers, and the streams in the Deschutes River Basin. The DRC's proactive, collaborative approach to water management will assure that the pervasive conflicts experienced in the Klamath Basin can be avoided in the Deschutes Basin. This year, the federal government will spend \$100 million in an effort to resolve conflicts over water in the Klamath Basin. The DRC requests reauthorization for \$2 million per year on a matching basis through 2016. This modest investment will be matched by at least four-to-one from non-federal sources, and will assure that cooperative, market-based approaches can guide sustainable water management in the Deschutes Basin for years to come.

THE DRC SUCCESS STORY

The Deschutes River Conservancy (DRC), is a non-profit, private corporation established in Oregon in 1996. In September 1996, Congress enacted and the President signed Public Law 104-208, which included S.1662, the Oregon Resources Conservation Act establishing the DRC (then known as the Deschutes Basin Working Group under Section 301(h) (Division B, Title III)). In 2000 Congress reauthorized the DRC through P.L. 106-270, the Deschutes Resources Conservancy Reauthorization Act of 2000 which authorized \$2.0 million per year on a matching basis through FY06.

The DRC was created to bring together all of the key stakeholders—farmers, tribes, irrigation districts, cities, private business, public agencies and environmental organizations—to proactively devise solutions that work for the river and for all parties. The DRC's mission is to restore streamflow and improve water quality in the Deschutes River Basin. Rather than relying on regulation, the DRC has successfully employed voluntary, market-based programs to restore over 90 cfs of streamflow in the Deschutes Basin. Furthermore, by planting more than 100,000 trees, installing 40 miles of riparian fencing, removing berms and reconstructing stream beds, and many other restoration activities, the DRC has improved the habitat and water quality along 100 miles of the Deschutes River and its tributaries. In eight short years an enormous amount has been accomplished, but there is much more to do.

THE CHALLENGE

Long stretches of the Deschutes River and its tributaries still suffer from poor streamflow and water quality. Much of the river fails to meet water quality standards set by the Clean Water Act and Oregon's Department of Environmental Quality. These conditions present significant threats to the fish and wildlife and are the potential basis for legal challenges under the Clean Water Act and Endangered Species Act. These potential legal challenges are imminent due to the recent relicensing of the Pelton Round Butte Hydroelectric Project that will provide for fish passage of listed species (steelhead and Chinook salmon) to the Upper Deschutes Basin for the first time in over fifty years.

The Deschutes is urgently trying to avoid becoming another area of Klamath-like conflict, but that possibility still exists. In the Klamath River Basin, intense conflict over water has financially crippled many farmers and killed tens of thousands of fish. The DRC is facilitating win-win solutions among irrigators, cities, and tribes to resolve conflict while it is still possible to do so.

THE DRC'S PIVOTAL ROLE

The DRC has played a critical catalytic role in galvanizing the many and diverse constituencies in the basin around the view that restoration of the Deschutes River Basin serves everyone's interests. The current political, social and economic conditions create superb opportunities to achieve lasting results for the Deschutes Basin.

In August 2004, Secretary of Interior, Gail Norton, visited Bend to tout Interior's new program, Water 2025—Preventing Crisis and Conflict in the West, and to highlight the innovative nature of a recent grant to the Deschutes Water Alliance. This

alliance between the DRC, five Central Oregon cities, seven irrigation districts, and the Confederated Tribes of Warm Springs holds great promise to design and implement a water bank and conduct conservation projects that can more efficiently allocate water to all competing uses—the streams, the cities, recreation, and irrigated agriculture.

Reauthorization for the DRC is critical. The DRC has built the staff expertise and experience in water conservation and marketing that is essential for the success of the water bank and the Deschutes Water Alliance. Reauthorization will allow the DRC and its partners to capitalize on the current set of opportunities while the conditions are ripe. Without the DRC's leadership and technical expertise the Alliance would be significantly handicapped. Beyond its technical expertise in water rights, transfers and conserved water, the DRC has the knowledge and experience to raise significant non-federal capital from a variety of sources to finance its water initiatives.

Over six years the DRC obtained \$3.60 of matching support for every \$1.00 of BOR federal funds invested

WATER CONSERVATION AND WATER BANKING INITIATIVES

The importance of the DRC reauthorization lies in the huge ground breaking opportunities for major water conservation and water banking initiatives in the Deschutes Basin. These are the precise opportunities that the DRC was created to develop. The current funding to the Deschutes Water Alliance from Interior's Water 2025 program finances significant data gathering and analysis. The studies are assessing water allocation optimization alternatives using water conservation, water banking and water storage. The studies and the pilot water bank will enable the Deschutes Water Alliance to develop a cost effective, politically palatable water management master plan that addresses all of the significant needs for water in the Deschutes Basin. Subsequently, the DRC and its partners will pursue major water conservation and water banking projects.

DRC REAUTHORIZATION LEGISLATION NEEDS

1. Term: 10 years
2. Amount: \$2 million
3. Modify quorum to be eight directors for conducting all business
4. Schedule: The DRC needs to be reauthorized no later than September 30, 2005.

Only two changes are requested from the 2000 authorization of the DRC: 1) term increases from five to ten years and 2) quorum is fixed at eight directors for all kinds of business. The DRC is deeply involved and has played an important catalytic role in a long term effort that that is likely to fail without the DRC. The problems are resolvable in ten to twenty years and another ten years of federal authorization is critical to success.

Senator SMITH. Tod, I guess given the Secretary's words, you would probably say the DRC is helping to solve the issues Reclamation is charged with solving?

Mr. HEISLER. Correct.

Senator SMITH. So, I would probably recommend we find some money.

Mr. HEISLER. Thank you.

Senator SMITH. Jim Hill, under the current MOA, which is referenced in S. 251, what percentage of the feasibility study costs will be borne by the city of Medford?

Mr. HILL. The city is going to be—is responsible for seeking funds. We will be searching for a variety of sources of funds to pay for that \$2.8 million.

Right now, we have gotten a \$900,000 EPA grant that is funding the first phase of it. And we will be working with Oregon Watershed Enhancement Board and with local funding through the city and other agencies, as well as looking for more Federal funds to support that; the remainder of the cost of the feasibility study.

Senator SMITH. Wayne, your projects, what kind of bearing do they have on treaties with Mexico, and do they help us comply with those treaties?

Mr. HALBERT. The problem with the treaties in Mexico is Mexico has a treaty to deliver so much water to the Rio Grande on an annual basis. But Mexico has developed a need for that water that far extends their ability to meet the terms of the treaty. So, they are not abiding by the treaty and have not for the last 10 or 15 years, except accidental. And by accidental, I mean when nature—when Mother Nature gives them enough water that they cannot capture it all, then we get some of that water and that water is water that goes in favor of Mexico for the treaty issue.

The problem that this has created for us in the United States is that we were dependent on about—a little over 400,000 acre-feet of water a year from Mexico that we are not—we are no longer getting. And so, these water conservation projects are important for us to make up that difference.

We are having—in other words, we are having to come from behind to find ways to satisfy the needs the needs of our agricultural interests along the Rio Grande, as well as our municipal and urban needs, also. And the only way we can do it is—since agriculture is—uses 85 percent of the water, the only way we can do it is through agricultural water conservation projects.

Senator SMITH. The administration has testified that, unlike the previous authorization for the lower Rio Grande Valley, S. 519 shifts the focus from the project's scope to the project's cost. And do you agree with the Bureau of Reclamation's characterization of that? And if so, do you think such a shift in costs is appropriate?

Mr. HALBERT. Well, a part of the problem that we were trying to solve there was that the—when the projects would occur, when we would actually do the projects—I will try to explain it by giving you an example of what happened in our district. We were putting in several miles of pipeline within our district, putting canals underground in a pipeline. It did not seem to make any difference to the Bureau that we put in—if we had two miles of pipeline to construct, it did not make any difference to the Bureau if that cost us a million dollars more than it was supposed to cost us. We just could not go two miles and two feet.

And yet when we got out there in doing the project, we might could go two miles and another quarter of a mile for less money but that was not satisfactory with the Bureau. And so, it was creating all kinds of problems with us being able to comply with what the Bureau was wanting to do.

There was also some other issues with that, in that we wanted to spread the amount of money that might be appropriated over several of the districts so that the districts could do some of their projects and all of the money not go to one project. And that was a part of the other issue.

Those two issues were—we tried to address in this legislation, in the changes in this legislation.

Senator SMITH. Would it not have, in effect, then be a preauthorization of projects if this legislation passes?

Mr. HALBERT. I am not sure that I understand the question.

Senator SMITH. Well, by this cost shift, the question is if you are going to start at all, you are going to essentially pre-approve the entire project and not just components of it?

Mr. HALBERT. Right. Well, the studies to do the projects are still required and complete. It is just that when you actually do the projects, sometimes even under the best of study conditions, it is—it does not actually happen on the field exactly like it does on paper.

Senator SMITH. Okay. Ernie, you are off the hook. I do not have any questions for you.

Mr. SCHANK. Okay.

Senator SMITH. So thank you all again, and we appreciate your willingness to come this far to participate in this public record. And we look forward to moving on all of these bills. With that, we are adjourned.

[Whereupon, at 3:52 p.m., the hearing was adjourned.]

APPENDIX
RESPONSES TO ADDITIONAL QUESTIONS

DESCHUTES RIVER CONSERVANCY,
Bend, OR, May 9, 2005.

Hon. LISA MURKOWSKI,
Chairman, Subcommittee on Water and Power, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MS. MURKOWSKI: Thank you for giving me the opportunity to testify before your Subcommittee on April 19th in support of S. 166—The Deschutes River Conservancy Reauthorization Act.

Enclosed, please find responses to the questions you posed in your April 27th letter.

If you have any further questions, I would be happy to submit responses to them as well.

Sincerely,

TOD HEISLER,
Executive Director.

[Enclosures.]

QUESTIONS FROM SENATORS MURKOWSKI AND JOHNSON

Question 1. Please describe the DRC's Water Conservation and Water Banking Initiative.

Answer.

THE WATER ACQUISITION PROGRAM

Water acquisitions undertaken by the DRC since 1998 total 100 cfs of restored streamflow in the Deschutes Basin. The DRC acquires water for instream flow restoration in three ways:

1. Agricultural Water Conservation projects.
2. Water Banking: Leasing natural flow, storage and conserved water from water rightholders.
3. Transfers: Acquiring water rights or undertaking source switches (i.e. substituting groundwater for surface water rights).

The DRC's water banking activities also include the State-chartered Groundwater Mitigation Bank that the DRC runs as part of its leasing program.

CONSERVATION

Irrigation canals in the upper Deschutes Basin have, in most cases, been excavated into permeable lava flows which dominate the high plains geology of Central Oregon. Unlined canals and laterals leak large quantities of water into the ground, requiring large diversions from the Deschutes River to deliver irrigation water to the places of use. While the percentages vary from district to district, the overall range of losses falls within 40-55%. Piping and lining of canals and laterals, as well as on-farm water use efficiency projects save water that otherwise seeps into the ground. Oregon's Conserved Water Program allows this saved water to be protected instream or certificated as new water rights for use on land. Instream water rights from saved water can be protected in the 30 mile reach between Bend and Lake Billy Chinook, making an important contribution to restoration of depleted flows in the Middle Deschutes River.

Conservation Projects

Conservation projects are typically implemented as a cost-share between an irrigation district and restoration funders like the DRC. The DRC uses its federal, state, and hydro power mitigation funds to finance the capital costs of conservation projects (pipe and materials), and the irrigation districts usually fund installation and contractors. The resulting saved water is allocated based on the proportionate shares of financing by the district and the DRC. The restoration share of the water is protected permanently instream through a new instream water right. The district's water is 'banked' by leasing it instream until such time as it is either placed on land (within the district or in another

district) purchased for permanent instream protection, or provided for municipal uses through the state's Groundwater Mitigation Program. In districts that are water short (in particular Tumalo and Three Sisters Irrigation Districts) the district uses its portion of the saved water to firm up delivery to its existing patrons (rather than banking the water and providing water to new uses).

Accomplishments

The DRC has contributed \$1.4 million of federal funds to 7 conservation projects with a total investment of \$6.8 million (as shown below). Water conserved for instream use from these projects is 24 cfs (8,400 AF). The DRC is currently working with irrigation districts on second generation projects which will include both an annual revolving conservation fund for piping laterals and carrying out on-farm projects, as well as developing large piping and lining projects for district main canals.

| Project | Irrigation District | Length Piped (miles) | Total Water Saved (ac-ft) | Total Conserved Water | | Total Cost | Sponsor Cost | DRC Cost | Other Restoration Cost |
|-----------------|---------------------|-------------------------|------------------------------|-----------------------|--------------|------------------|------------------|------------------|------------------------|
| | | | | (cfs) | (ac-ft) | | | | |
| NUID 51-4 | North Unit | 4.89 | 1,022 | 1.51 | 421 | 425,400 | 223,900 | 89,500 | 112,000 |
| Alfalfa | Central Oregon | 1.91 | 1,003 | 3.09 | 1,003 | 121,287 | 62,363 | 58,924 | — |
| Thompson Ditch | Three Sisters | 1.03 | 887 | 2.09 | 887 | 131,578 | 45,978 | 59,800 | 25,800 |
| Bend Feed Canal | Tumalo | 1.40 | 7,251 | 13.62 | 4,447 | 4,842,594 | 2,811,471 | 821,123 | 1,210,000 |
| Cloverdale | Three Sisters | 3.09 | 1,189 | 2.00 | 849 | 660,000 | 400,000 | 160,000 | 100,000 |
| Lost & Boulder | Lost & Boulder | 10.44 | 327 | 0.40 | 170 | 106,696 | 47,111 | 49,085 | 10,500 |
| Fryrear | Three Sisters | 3.40 | 1,273 | 1.50 | 637 | 541,983 | 271,000 | 125,000 | 145,983 |
| TOTAL | | 16.17 | 12,951 | 24.21 | 8,413 | 6,829,538 | 3,861,823 | 1,363,432 | 1,604,283 |

WATER BANKING

Broadly defined, water banking is the temporary exchange of surface, groundwater, and storage water rights from one use to another by an intermediary.

Leasing

The DRC's leasing program is a voluntary, market-based program that temporarily restores streamflow to the Deschutes River and its tributaries while meeting the needs of local irrigators. Oregon water law requires that farmers maintain the validity of their water right by using it 'beneficially' once every five years and leasing water instream constitutes beneficial use under Oregon State law. The leasing program also educates landowners on options for their water and provides an introduction to permanent instream transfers. Leasing is also beneficial to local cities and other groundwater users because the surface water right can be exchanged for the right to use groundwater.

Formally established in 1998, the program has grown from a small donation based campaign to an eight-district, paid program comprising the largest portion of protected water in the Deschutes River. In 2004, the program was responsible for more than doubling the average summer flow in the Middle Deschutes, contributing 50 cubic feet per second (cfs) instream. In addition, the program contributed 5.30 cfs of protected water to Squaw Creek, 6.60 cfs to Tumalo Creek and 11.4 cfs in the Crooked River. In total, more than 24,000 acre-feet have been leased through the program in 2004 (Fig 1).*

Approximately 174 landowners are currently participating in the program, up from 108 in 2003. The increase in water leased was accompanied by an increase in landowner participation from nearly all districts.

In the early years of the program all leases were donated. However, in 2001 the DRC established its current fixed price of \$7/acre-foot and nearly twice the acre-feet were leased (Fig 1). The DRC has also tested a reverse auction methodology to increase participation in the Ochoco Irrigation District in 2003 and 2004. Landowners submitted sealed bids for amounts of water they were willing to lease at a given price. Ultimately the DRC accepted bids up to its reserve price, ultimately leasing 196.9 acres instream in 2003 and 642 acres instream in 2004.

Alliance Water Bank

The DRC is a partner in the Deschutes Water Alliance's Water Bank, which will serve as a parking place for surplus agricultural water. This water will be held by various accountholders including irrigation districts, cities, tribes and conservation groups like the DRC. Water will be deposited in the bank through a variety of mechanisms, including conserved water projects, piping, and urbanizing acreage. Through reverse price auctions, fixed price agreements and bilateral negotiations the water will be traded between the designated accountholders. Trading opportunities will be subject to reserve requirements set by the Bank in conjunction with accountholders, in order to ensure that adequate water right supplies are maintained for current uses before permanent transactions take place.

The program is process-based and ensures that irrigation districts—the primary suppliers of water—will move at a rate that is comfortable with their members and board. For example, to 'bank' water, the DRC quitclaims the water, acquiring ownership. Depending on the district, the DRC might lease the water instream for one or more years, and then later negotiate the exit price for the water. Once the exit fee is paid, the water rights are moved into the transfer process. In 2004, the DRC completed its first cycle of quitclaim, lease and transfer by moving 31 acres of district water, its first 'banked' water, into the transfer process. The Alliance partnership is likely to ensure an orderly and planned process for future banking transactions.

TRANSFERS

The Transfers Program is focused on permanent transfers of water rights to create new, senior instream water right certificates or by moving diversions downstream. In the Deschutes, transfers can also be used to create new groundwater rights through the State's Groundwater Mitigation Program. These projects can be donations (the DRC is a 501(c)3 non profit) or based on market prices for water. With rapid urbanization, demographic and land use change ongoing in the basin, there are many opportunities to acquire surplus agricultural rights. There is a limited track record of these transactions in the basin as they face many issues and hurdles. The DRC has participated in the first instream transfers of rights in the

*All figures have been retained in subcommittee records.

Squaw Creek, Middle Deschutes and Lower Crooked reaches, in a number of cases as an agent for clients involved in groundwater mitigation transactions.

Question 2. How was the DRC able to bring together and work collaboratively with so many diverse interests?

Answer. The origins of the DRC derive from the process of water rights adjudication undertaken by the Confederated Tribes of Warm Springs in the 1980s. At that time, the Tribes recognized that by exercising the full water rights entitled to them by treaty, they would cause enormous conflict and do more harm than good to themselves. They also realized that the issues they cared about most—water quality and fisheries—were larger than the reservation and could only be effectively managed at a basin-wide scale. Thus, in cooperation with Environmental Defense and Central Oregon Irrigation District they established the Deschutes Basin Working Group, an informal body convened to discuss cooperative ways to improve water quality, and restore streamflows and fisheries in the Deschutes.

This cooperative approach of the Deschutes Basin Working Group evolved over the next decade, and in 1996 the organization became a 501(c)(3) nonprofit corporation and received Federal authorization under the Oregon Resource Conservation Act. Thus, the original values instilled in the Deschutes River Conservancy were those of proactive collaboration.

In addition to original values, the DRC has been able to bring together and work collaboratively with so many diverse interests because of the presence of strong incentives to work together toward common aims. These incentives are as follows:

Common Purpose: All constituencies whether they be farmers, developers, sportsmen, environmentalists or government agencies share fundamental values about the importance of protecting Oregon's natural heritage. They may differ on the means to protect it but they all share this fundamental value. This enabled the DRC to formulate and reach consensus on a mission to restore streamflow and improve water quality.

Regulation: The existence of the Endangered Species Act and the Clean Water Act create strong incentives for diverse groups to work together. They become powerfully motivated to avoid the regulatory hammer. When the DRC began ten years ago, there were no listed species in the basin. The farmers and ranchers knew that species would likely be listed in the future and that they had time to be proactive to avoid regulation. Today one species, bull trout is listed and two other listed species, steelhead and Chinook salmon will be reintroduced above the Pelton dams in the near future. This has created new urgency to accelerate the collaboration.

Win-win solutions: The key to holding this diverse group together has been the DRC's ability to craft win-win solutions and this is the strongest incentive of all. When people know that to solve one problem they don't have to create a problem for someone else they are motivated to advance that solution. The DRC has developed a number of powerful win-win solutions.

- *Irrigation canal lining and piping.* With transmission losses of around 50%, piping canals can double the water supply, firming up supplies to farmers and restoring streamflow at the same time.
- *Water rights leasing.* By leasing their water rights instream, farmers can restore streamflow and protect their water rights from forfeiture.
- *Water rights transfers.* By employing the DRC method of transferring water rights instream, the stream benefits, the landowner is compensated, and the irrigation district is able to maintain financial solvency.

In summary, the keys to achieving effective collaboration among diverse groups are 1) to unify them around a common purpose (Oregon natural heritage), 2) galvanize action by creating urgency (impending regulatory or legal action) and 3) give the group solid opportunities to solve the problem in a manner that does not harm others (win-win solutions).

Question 3. Would the DRC be able to continue without the Bureau of Reclamation's participation?

Answer. The simple answer to this question is no. Managing water resources for growing cities, the needs of fish and wildlife, and farmers can not be accomplished without the participation of the Bureau of Reclamation.

In Central Oregon, two major Reclamation projects serve the needs of North Unit and Ochoco Irrigation Districts. North Unit and Ochoco Irrigation Districts divert water from the Crooked River which, as a result, suffers from low streamflow and poor water quality. Before the Pelton Round Butte Hydroelectric project was built in the 1960s, the Crooked River and its major tributaries were significant spawning grounds and habitat for steelhead and salmon. With the imminent relicensing of the dams at Pelton Round Butte, these listed species will be present in the Crooked River once again. Significant improvements to streamflow and water quality will be

necessary to avoid legal conflict under the Endangered Species Act and Clean Water Act.

In addition, the city of Prineville is on a trajectory for high population growth. Its neighbor, Redmond, is the fastest growing city in Oregon. As urban growth occurs a new demand for water will come with it. This sets up a potential three-way competition for water between the irrigators, the city, and the endangered species.

It is not possible to resolve this situation without the full participation of the Bureau of Reclamation and Congress. Successful outcomes cannot be achieved without Reclamation's technical and financial support. The management of Prineville and Wickiup reservoirs must be optimized and releases from them should serve the needs of cities and streams as well as irrigators. In addition, the water conveyance infrastructure should be lined or piped to achieve enormous water savings. Numerous legal, technical and financial hurdles still prevent progress from being made in these critical areas and the Bureau of Reclamation must be a part of the solution.

No one expects, however, that the Federal government should foot the entire bill. The Deschutes River Conservancy, Central Oregon cities and irrigation districts and the Confederated Tribes of Warm Springs are working together to secure a diverse array of financial resources including State funding, Hydroelectric mitigation funding, investment by cities, and private investment by individuals and foundations. We expect that Federal investment including both Reclamation and USDA needs to amount to approximately 23%-33% of the total investment if we are to have any chance to achieve the proactive collaborative solution.

Question 4. Explain the rationale for a quorum of eight directors?

Answer. Currently, the Deschutes River Conservancy board operates under a two-quorum system—a quorum of eight directors for all business except for approving projects and a majority quorum (50% plus one) to approve projects.

When the organization was founded, the majority quorum requirement seemed to make sense in order to build trust among the diverse stakeholders on the board. Now, the organization has a long track record of excellent collaboration among its directors and the majority quorum is more of a hindrance than a help.

The DRC board is comprised of top civic and business leaders in Central Oregon including the Forest Supervisor of the Deschutes National Forest, the mayor of Madras, the Chairman of Brooks Resources (largest real estate development company in Central Oregon), the President of Ochoco Lumber, and two prominent ranchers. These prominent individuals lead very busy lives, making it difficult for them to attend all of the DRC's board meetings. From a nineteen member board, we usually get eight or nine directors to attend meeting, but often find it difficult to secure the tenth director for project votes.

We do not believe that it would benefit the organization to reduce the stature of the board's membership simply to have directors that are more readily available. We think it is critical to maintain prominent individuals on the board and think that reducing the quorum requirement is a reasonable course of action after nine years of successful collaboration.

By reducing the quorum to eight, we can more easily conduct business and make the quorum requirement uniform for all decision-making, thereby eliminating the awkward two-quorum system under which we currently operate.